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Attorneys for 286 Rider Ave Development LLC, Appellant

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

286 Rider Ave Acquisition LLC,

Case No. 21-11298-lgb

Debtor.

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**APPELLANT 286 RIDER AVE DEVELOPMENT LLC'S STATEMENT OF
ISSUES TO BE PRESENTED ON APPEAL AND DESIGNATION OF
ITEMS TO BE INCLUDED IN RECORD ON APPEAL**

286 Rider Ave Development LLC, Appellant, by and through its undersigned counsel and pursuant to Federal Rule of Bankruptcy Procedure 8009, having filed a Notice of Appeal on December 20, 2021, from that Order (A) Approving Bid Procedures in Connection with the Sale of the Debtor's Real Property, (B) Approving Form and Manner of Notice of Sale, and (C) Scheduling Auction [Dkt No. 200], files this Statement of Issues to be Presented on Appeal and Designation of Items to be Included in Record on Appeal:

I. ISSUES ON APPEAL.

1. Whether the Bankruptcy Court abused its discretion and committed error under 11 U.S.C. Section 363 in authorizing a lender-orchestrated expedited marketing and sale of the real

estate, the bankruptcy's principal asset, over the holiday season resulting in a fire sale scenario likely to dramatically reduce the sale price to the detriment of the creditors and equity holder and for the sole benefit of the lender?

2. Whether the Bankruptcy Court erred in allowing secured lender a credit bid under 11 U.S.C. Section 363, which, among other things, allowed secured lender to bid an amount that exceeded the value of the property being sold and without secured lender having filed a sworn statement of its claim?

3. Whether the Bankruptcy Court erred in allowing bid protections to a stalking horse bidder in the absence of proof that such protections were necessary to preserve and protect property of the estate as required under 11 U.S.C. Section 503 and in denying appellant as equity holder stalking horse bidder status?

II. DESIGNATION OF RECORD.

<u>Entry Date</u>	<u>Dkt. No.</u>	<u>Document</u>
		Bankruptcy Court Docket for Case No. 21-11298-lgb
12/20/2021	209	First Notice of Appeal to Bid Procedures Order filed on behalf of 286 Rider Ave Development LLC.
12/13/2021	200	Order Signed Re: (A) Approving Bid Procedures In Connection With The Sale Of The Debtors Real Property, (B) Approving Form And Manner Of Notice Of Sale, And (C) Scheduling Auction.
12/09/2021		Transcript of 12/09/2021 Hearing.
12/08/2021	197	Statement Pro Forma Purchase and Sale Agreement filed on behalf of 286 Rider Ave Acquisition LLC.
12/08/2021	196	Supplemental Declaration of Martin Joseph.

12/07/2021	194	Debtor's Reply to Objection and Reservation of Rights of 286 Rider Ave Development LLC, Toby Moskovits and Yechial Michael Lichtenstein to Debtors Motion for an Order (A) Approving Bid Procedures in Connection with the Sale of the Debtor's Real Property, (B) Approving Form and Manner of Notice, and (C) Scheduling Auction filed on behalf of 286 Rider Ave Acquisition LLC.
12/03/2021	190	Objection to Motion and Reservation of Rights of 286 Rider Ave Development LLC, Toby Moskovits and Yechial Michael Lichtenstein to Debtors Motion for an Order (A) Approving Bid Procedures in Connection with the Sale of the Debtor's Real Property, (B) Approving Form and Manner of Notice, and (C) Scheduling Auction filed on behalf of 286 Rider Ave Development LLC.
11/24/2021	177	Order signed Re: Shortening Notice and Scheduling Hearing on the Debtor's Motion for an Order (A) Approving Bid Procedures in Connection with the Sale of the Debtor's Real Property, (B) Approving Form and Manner of Notice, and (C) Scheduling Auction
11/23/2021	174	Motion to Shorten Time – Motion for Shortening Notice and Scheduling Hearing on the Debtor's Motion for an Order (A) Approving Bid Procedures in Connection with the Sale of the Debtor's Real Property, (B) Approving Form and Manner of Notice, and (C) Scheduling Auction filed on behalf of 286 Rider Ave Acquisition LLC.
11/23/2021	173	Motion to Approve - Motion for an Order (A) Approving Bid Procedures in Connection with the Sale of the Debtor's Real Property, (B) Approving Form and Manner of Notice, and (C) Scheduling Auction filed on behalf of 286 Rider Ave Acquisition LLC.
11/09/2021	128	Objection to Motion of Nominal Debtor's Application for Order Directing the Filing of Proofs of Claims Against the Debtor and Approving Form and Manner of Service filed on behalf of 286 Rider Ave Development LLC.
11/09/2021	121	Order Signed Re: Establishing Deadline For Filing Proofs Of Claim Against The Debtor And Approving The Form And Manner Of Notice Thereof.

11/05/2021	116	Amended Statement of Financial Affairs - Non-Individual, Amended List of Equity Security Holders filed on behalf of 286 Rider Ave Acquisition LLC.
10/26/2021	98	Motion to Set Last Day to File Proofs of Claim – Application for Directing the Filing of Proofs of Claims Against the Debtor and Approving Form and Manner of Notice filed on behalf of 286 Rider Ave Acquisition LLC.
10/25/2021	97	Schedules filed: Schedule A/B - Non-Individual, Schedule D - Non-Individual, Schedule E/F - Non-Individual, Schedule G - Non-Individual, Schedule H - Non-Individual, - Non-Individual List of Creditors Who Have 20 Largest Unsecured Claims and Are Not Insiders (Official Form 204), Corporate Ownership Statement. Corporate parents added to case: 286 Rider Ave Lender LLC., List of Equity Security Holders, Matrix, Statement of Financial Affairs - Non-Individual, Summary of Assets and Liabilities Schedules - Non-Individual, Disclosure of Compensation of Attorney For Debtor (Rule 2016(b))- Form 2030, Declaration Under Penalty of Perjury for Non-Individual Debtors (Official Form 202) Filed on behalf of 286 Rider Ave Acquisition LLC.
07/15/2021	1	Chapter 11 Voluntary Petition for Non-Individual filed on behalf of 286 Rider Ave Acquisition LLC.

Dated: New York, New York
January 3, 2022

OFFIT KURMAN, P.A.

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CERTIFICATE OF SERVICE

A copy of Appellant 286 Rider Ave Development LLC's Statement of Issues to be Presented on Appeal and Designation of Items to be Included in Record on Appeal were served on January 3, 2022 via (i) Electronic Notice and E-Mail upon parties listed on the attached service list as denoted with a "***"; or (ii) E-mail upon parties listed on the attached service list as denoted with a "***".

SERVICE LIST

VIA ELECTRONIC NOTICE AND E-MAIL (*)

- Joseph Thomas Moldovan, Terence K. McLaughlin, and David J. Kozlowski on behalf of Be-Aviv 286 Rider LLC - bankruptcy@morrissoncohen.com
- Fred B. Ringel on behalf of Debtor 286 Rider Ave Acquisition LLC - fbr@robinsonbrog.com

- Steven B. Eichel on behalf of Debtor 286 Rider Ave Acquisition LLC – se@robinsonbrog.com

VIA E-MAIL ()**

- Greg Zipes on behalf of United States Trustee - greg.zipes@usdoj.gov

/s/ Jason A. Nagi

Jason A. Nagi, Esq.